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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/997,790	11/30/2001	David Leigh Donoho	UNIV0001D3-C	6114

22862 7590 09/30/2005

GLENN PATENT GROUP
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EXAMINER

CARDONE, JASON D

ART UNIT	PAPER NUMBER
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2145

DATE MAILED: 09/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/997,790

Applicant(s)

DONOHU ET AL.

Examiner

Jason D. Cardone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the amendment of the applicant, filed on 7/22/05.

Claims 1-41 are presented for further prosecution.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-5, 10-15, and 37-42 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 5, 7, 9-12 and 20-28 of copending Application No. 09/997,790. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claim the same subject matter. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Ahmad.

6. Regarding claim 1, Ahmad discloses a method for inspecting any of the properties of a computer, the computer's configuration, contents of the computer's storage devices, the computer's peripherals, and the computer's environment, comprising the steps of:

providing at least one inspector library at the computer, the at least one inspector library comprising at least one inspector and associated methods and evaluating subexpressions at the computer with the at least one inspector [Ahmad, col. 7, line 59 – col. 8, line 26 and col. 10, lines 30-43];

performing with the inspector at the computer any of mathematico-logical calculations, executing computational algorithms, returning results of system calls, accessing contents of storage devices, and querying devices or remote computers to inspect any of the properties of the computer, the computer's configuration, contents of the computer's storage devices, the computer's peripherals, and the computer's environment [Ahmad, col. 8, lines 27-49 and col. 9, lines 44-63].

7. Regarding claim 2, Ahmad further discloses providing an inspector dispatcher associated with an advice client computer for continually performing relevance determination; wherein the relevance determination is driven by a database of relevance clauses, which can be continually evaluated [Ahmad, col. 7, line 59 – col. 8, line 26 and col. 10, lines 30-43].

8. Regarding claim 3, Ahmad further discloses sending certain relevance clauses to a remote location, evaluating the clauses, and returning the clauses after a user is made aware of what is being transferred, wherein properties of the remote location are learned [Ahmad, col. 7, line 59 – col. 8, line 26, col. 10, lines 30-43 and col. 16, line 52 – col. 17, line 9].

9. Regarding claim 4, Ahmad further discloses relevance evaluation is driven in a master-slave relationship by a master machine, which tells a slave machine to evaluate a relevance clause

10. Regarding claim 5, Ahmad further discloses properties, which can be learned, are elementary properties that are determined according to basic calculations [Ahmad, col. 8, lines 27-49 and col. 9, lines 44-63].

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11. Regarding claim 6, Ahmad further discloses the at least one inspector is built into the inspector dispatcher [Ahmad, col. 7, line 59 – col. 8, line 26, col. 10, lines 30-43 and col. 16, line 52 – col. 17, line 9]

12. Regarding claim 7, Ahmad further discloses providing one or more caches for avoiding heavy CPU and disk access overhead while successfully performing the continual relevance evaluation [Ahmad, col. 8, lines 27-49 and col. 9, lines 44-63].

13. Regarding claims 8 and 9, Ahmad further discloses an object, property name, and/or string selector is dispatched to the inspector dispatcher for relevance evaluation using a method dispatch module in accordance with dispatch information contained within a method dispatch table wherein the module performs the steps of parsing a clause in a relevance language, generating a list of method dispatches in response to the parsing step, wherein specific methods are called in a specific order with specific argument lists; and systematically carrying out a sequence of method dispatches in an appropriate order

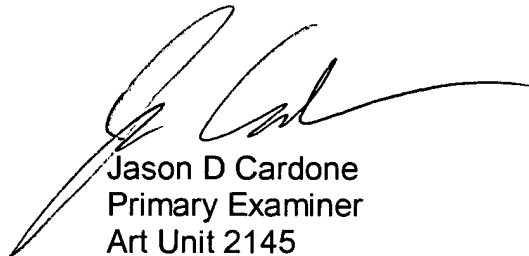
14. Regarding claims 10-41, claims 10-41 have similar limitations as claims 1-9. Therefore, they are rejected under Ahmad for the same reasons set forth in the rejection of claims 1-9 [Supra 1-9].

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason D. Cardone whose telephone number is (571) 272-3933. The examiner can normally be reached on Mon.-Thu. (6AM-3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason D Cardone
Primary Examiner
Art Unit 2145

September 28, 2005